

Exhibit B

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

| | | |
|-------------------------------|---|------------------|
| BRANDON LESTER | § | |
| | § | |
| vs. | § | CIVIL ACTION NO. |
| | § | 7:15-CV-665 |
| SMC TRANSPORT, LLC AND ISRAEL | § | |
| MARTINEZ, JR. AND SALINAS | § | |
| EXPRESS, LLC | § | |
| | § | |

ORAL AND VIDEOTAPED DEPOSITION
EDUARDO LOZANO
April 18, 2016

ORAL AND VIDEOTAPED DEPOSITION OF EDUARDO LOZANO, produced as a witness at the instance of the Plaintiff and duly sworn, was taken in the above-styled and numbered cause on April 18, 2016, from 5:29 p.m. to 6:53 p.m., before Annette E. Escobar, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the offices of La Posada Hotel, La Posada Hotel, 1000 Zaragoza Street Laredo, The Blue Bonnet Conference Room, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

COPY

1 APPEARANCES

2 ATTORNEY FOR PLAINTIFF:

3 John Neal M. White
Victor Skaff
4 GLENN ROBINSON & CATHEY, PLC
400 Salem Avenue, Suite 100
5 Roanoke, VA 24016
Telephone: 540.757.2200
6 Fax: 540.767.2220
E-mail: jwhite@glenntrob.com

8 ATTORNEY FOR DEFENDANT:

9 Lawrence A. Dunn
MORRIS & MORRIS, P.C.
10 11 South 12th Street, 5th Floor
Richmond, VA 23219-1998
11 Telephone: (804) 344-8300
Fax: (804) 344-8359
12 E-mail: ldunn@morris-morris.com

13 ATTORNEY FOR DEFENDANT:

14 David W. Hearn
SANDS ANDERSON PC
15 1111 East Main Street, Suite 2400
Richmond, VA 23219-1998
16 Telephone: (804) 783-7285
E-mail: DHearn@SandsAnderson.com

17 ATTORNEY FOR DEFENDANT, SALINAS EXPRESS, LLC:

18 Daniel P. Frankl
19 FRANKL, MILLER & WEBB, LLP
1711 Grandin Road
20 P. O. Box 4126
Roanoke, VA 24215
21 Telephone: 540.527.3515
Fax: 540.527.3520
22 E-mail: dfrankl@franklmillerwebb.com

23 ALSO PRESENT:

24 Frank Estrada, Videographer
25

INDEX

| WITNESS: | PAGE |
|-------------------------------|-------|
| EDUARDO LOZANO | |
| Examination by Mr. Skaff | 4, 71 |
| Examination by Mr. Dunn | 58 |
| Examination by Mr. Hearn | 60 |
| Witness Signature | 73 |
| Court Reporters Certification | 74 |

EXHIBITS

| NO. | DESCRIPTION | PAGE |
|-----|--------------------------------|------|
| 7 | Aerial Photograph of Rest Area | 29 |

P-R-O-C-E-E-D-I-N-G-S

Whereupon,

5:29 P.M.

THE VIDEOGRAPHER: We are on the record.

Today's date is April 18th of the year 2016. The time is approximately 5:29 in the afternoon, and you may proceed with the deposition, please.

EDUARDO VICENTE LOZANO,
having been first duly sworn, testified as follows:

EXAMINATION

BY MR. SKAFF:

Q Can I get you to go ahead and state your full name, please.

A Eduardo Vicente Lozano.

Q Mr. Lozano, my name is Victor Skaff. I'm an attorney from Roanoke, Virginia representing Brandon Lester in a lawsuit that he's filed against SMC Transport, Mr. Martinez and Salinas Express.

Have you ever given a deposition before?

A No.

Q Okay. I'm just going to ask you some questions, a little bit about your background, what happened on the date of this incident.

If you don't understand what I'm asking you, please let me know and I'll be happy to rephrase the

1 question, okay?

2 A Okay.

3 Q And if at a minimum you can give a verbal
4 answer, a yes or no response as opposed to an uh-huh or an
5 unh-unh, that helps out for the record, okay?

6 A Okay.

7 Q All right. What's your current address?

8 A 5236 Stop 52B. You put the word Stop in there.
9 It's my mailing address Zapata, Texas 78076.

10 Q And who lives there with you?

11 A Well, that's my mailing address which is the
12 box, the house number. I'm mainly on the truck, so I
13 don't have a, not too sure about my mom's house address.

14 Q What's your permanent physical address?

15 A I believe it's 1712 Third Street, Medina
16 Edition.

17 Q I'm sorry, what was the last?

18 A 1712 Third Street, Medina Edition there in
19 Zapata.

20 Q And so who do you live with?

21 A That's my mom.

22 Q What is her name?

23 A Ana Maria Lozano.

24 Q How long have you lived at that address?

25 A Since back in '07 when I came back. Back in '07

1 when I came back.

2 Q Came back from where?

3 A I used to live in Dallas.

4 Q Do you have a telephone number you can be
5 reached at?

6 A Area code (956)763-6346.

7 Q And what's your date of birth?

8 A 2-24-76.

9 Q What's your Social Security number?

10 MR. FRANKL: Off the record.

11 THE VIDEOGRAPHER: Okay. We're off the
12 record.

13 THE WITNESS: 5901.

14 THE VIDEOGRAPHER: We're back on.

15 Q (By Mr. Skaff) Are you currently married?

16 A No.

17 Q Ever been married?

18 A Just lived together with someone.

19 Q Back in, at the time of this accident October of
20 2015, were you in a relationship?

21 A No.

22 Q Tell me about your educational background.

23 A High school.

24 Q Are you a high school graduate?

25 A Yeah.

1 Q What year did you graduate?

2 A Ninety-five.

3 Q Have you ever been convicted of any crimes at
4 all?

5 A Once.

6 MR. FRANKL: Objection.

7 Q Have you ever been convicted any felonies?

8 A Well, just the time that I got up in Waco.

9 Q Okay. I'm sorry. I don't know anything about
10 that, what is that?

11 A Once that I got in trouble in Waco.

12 Q Were you convicted of a felony?

13 A I was put on probation.

14 Q What was, what were you convicted of?

15 A Having a firearm in my pickup. That's back when
16 I worked in Dallas.

17 Q And you were put on probation as a result of
18 that?

19 A Yeah.

20 Q That was in the Dallas area?

21 A Waco.

22 Q Waco. I'm sorry.

23 Have you ever been convicted of any crimes
24 involving lying, cheating or stealing?

25 A No, sir.

1 Q Are you currently employed?

2 A Yes.

3 Q Who are you employed by?

4 A Salinas Express.

5 Q And how long have you been employed by Salinas
6 Express?

7 A I've been working for him about nine years.

8 Q And what do you do for Salinas Express?

9 A Driver.

10 Q And during your nine years ago of being employed
11 by Salinas Express have you always been a driver?

12 A Yes.

13 Q That's a yes?

14 A Yes.

15 Q Prior to your working with Salinas Express, what
16 kind of work did you do?

17 A I did a little local job driving also driving
18 hauling and when I was up in Dallas I was an electrician.

19 Q So how long all told have you been driving
20 trucks?

21 A I had to drive a big truck. When I worked with
22 the electrical company I had to drive a big semi-truck
23 also.

24 Q Okay. So how long all told have you been
25 driving trucks?

1 A Since '04. I had my license in since '04, 10,
2 11 years, twelve.

3 Q So from 2004 until the present, you've been
4 driving trucks in one form or another?

5 A Yeah.

6 Q And you do have a CDL?

7 A Yes, sir.

8 Q And you obtained that in 2004?

9 A Yes, sir.

10 Q Did you have any other kind of formal training
11 as it relates to driving a truck?

12 A Grew up on them.

13 Q Is that no?

14 A Well, like I said, I grew up around them, so
15 that's basically most of what I know.

16 Q So let me start -- when you started driving
17 trucks after you got your CDL, were you, were you a long
18 haul driver, over the road driver?

19 A That's when I was working with the electric
20 company and when I came back down to my mom's house I
21 started driving long hauls.

22 Q How long -- when you were driving with the
23 electric company how long, how long -- how long did you
24 work for the electric company?

25 A '04 to '07.

1 Q Okay. I'm sorry.

2 So from 2004 to 2007 you worked for the
3 electric company?

4 A Yeah.

5 Q What's the name of that company?

6 A Pike Electric.

7 MR. HEARN: Do you say Pike?

8 THE WITNESS: That's when they came down
9 into Texas.

10 MR. HEARN: I didn't think they were down
11 here very much. Sorry.

12 Q (By Mr. Skaff) And you would drive big
13 semi-trucks?

14 A Big bucket trucks or moving poles from the yard
15 to locations.

16 Q So how far would you have to drive in that job?

17 A Sometimes it would be within a 30, 40-mile
18 radius.

19 Q Did you ever go any more than that?

20 A Several times we went from here to, there was a
21 storm, they were getting ready for the storm down in
22 Florida, we'd go out there and come back.

23 Q Why did you leave your job with Pike Electric?

24 A I needed to come home. My mom got sick and I
25 came home.

1 Q And in 2007 you began working with Salinas?

2 A I started first there at the local gravel
3 hauling yard and then about a month or two started working
4 for him, just working here in Texas, then we started going
5 out.

6 Q Did you know -- how did you get, initially get
7 involved with Salinas Trucking?

8 A His parents and my parents knew each other since
9 we were little.

10 Q Who's his?

11 A Rudy's or Salinas Express, they're all brothers
12 own the company.

13 Q But you've known Rudy's parents and your parents
14 they've been friends for years?

15 A Yeah.

16 Q When you began working for Salinas did you fill
17 out an application?

18 A Not at first.

19 Q Did you ultimately?

20 A Yeah, I did several times, several places that
21 we had to lease on to I had to fill out the applications.

22 Q I'm still a little confused about what you're
23 saying.

24 Did you fill out an application at any time
25 to work with Salinas Express?

1 A Yeah.

2 Q Okay.

3 A And I don't remember when I filled it out, but I
4 did fill one out.

5 Q Okay. In your nine years or so with Salinas
6 Express, how have you gotten paid?

7 A They just deposit into my account or give a
8 little money to my mom, or a check. It all depended
9 whatever you had in hand.

10 Q And at any point have you gotten paid cash?

11 A If he had it in his pocket, if I did a short
12 run, he'd pay me in cash. Other than that, he'd deposited
13 into my account or like I said, give the check to my mom,
14 but it wasn't Salinas Express check, it was Rudy Salinas
15 check.

16 Q It was a personal check?

17 A Yeah.

18 Q Have you ever gotten paid by Salinas Express?

19 A No, since the truck I drive is leased on, it's
20 Rudy's but he's got it on a lease.

21 Q In your nine years have you ever received any
22 kind of 1099 or other tax documents from Salinas Express?

23 A Just the 1099.

24 Q You received one every year?

25 A Yeah.

1 Q Do you own a tractor?

2 A No.

3 Q If I understood what you said correctly, you
4 would drive a tractor that was owned by Rudy Salinas
5 personally?

6 A Yeah. Yeah, it's his. They started off -- he
7 had a truck and his sister had a truck and they just
8 combined it and made it into a company instead of having
9 one truck under different owners. They kind of got them
10 together.

11 Q To your understanding, what is the structure of
12 Salinas Express in terms of ownership and operation, that
13 sort of thing?

14 A I just drive. I don't pay attention to the
15 office work.

16 Q Okay. There is an office, correct?

17 A Yeah, they got an office.

18 Q Who runs that office?

19 A Rudy.

20 Q And then his sister you say is involved as well?

21 A She helps him out making the checks and
22 paperwork.

23 Q What is her name?

24 A Sylvia.

25 Q And what is Roy Salinas's involvement in the

1 company?

2 A I know he's getting trucks, he was getting the
3 trucks from Rudy or his dad and he just leased on there.

4 Q He what?

5 A He leased in there, and they just kind of help
6 each other out there when they got problems, something,
7 paperwork.

8 Q And how many -- how many individuals are you
9 aware of over your nine years or so that have typically
10 driven for Salinas?

11 A Basically, it was just me until recently when
12 they started hiring other people.

13 Q Would Rudy or Roy drive as well?

14 A Rudy used to drive, now he just stays in the
15 office.

16 Q Would Roy drive?

17 A Yeah.

18 Q So it's basically just the three of you that
19 would drive?

20 A Uh-huh.

21 Q Yes?

22 A Yeah.

23 Q What does Salinas do in terms of, are there
24 typical routes that are run, are there typical loads that
25 are hauled?

1 A There's, the most common go up to Winchester,
2 Virginia for Home Depot. Those are Warner trailers that
3 we pull.

4 Q Where do you pick up the Warner trailers to
5 pull?

6 A We got some there at the yard and we go load in
7 the Valley.

8 Q So you have some Warner trailers at the Salinas
9 yard?

10 A Yeah.

11 Q And you go pick up the load in the Valley?

12 A Yeah.

13 Q What's the Valley, I'm sorry?

14 A Down in McAllen, Mission, all that area.

15 Q And what is the load that you would typically
16 pick up?

17 A It's basically cabinets for Home Depot.

18 Q I apologize. Is it a Home Depot store in
19 Winchester or is there some distribution center?

20 A No, the distribution center, we take them up
21 there.

22 Q Other than that particular run, are there any
23 other sort of common or typical runs that Salinas makes?

24 A Whatever else they can find that pays good.

25 Q And how do you get paid with Salinas? By the

1 mile?

2 A By the mile.

3 Q And what is your rate per mile?

4 A That's a good question. I don't even pay
5 attention, but I believe it's 40 cents a mile.

6 Q Has that rate been pretty consistent over your
7 time with Salinas?

8 A I know I started off about 32.

9 Q But now you're up to right around 40?

10 A Yeah.

11 Q Do you typically get paid other expenses, gas;
12 how does all that work?

13 A Well, whatever, when they get me a T-check for
14 fuel and expenses from there, they deduct it from my
15 check.

16 Q And that term, T-check has been used several
17 times today and I'm not sure I understand what that means.

18 A It's a check that they give us.

19 Q Hang on just one second. So what is a T-check?

20 A It's like advance that they give you to make the
21 run so you can pay the fuel, to make it to the delivery.

22 Q And is that a physical document, is that
23 something like you get electronically? How does it work?

24 A I just get a text message by the code, the
25 express code that they call them.

1 Q So you get a text message on your phone --

2 A Yeah.

3 Q -- with a code, and you go to a truck stop?

4 A Truck stop, give it to them, tell them how much
5 fuel I want or I tell them I'm going fuel up and they get
6 the code, run it through, they deduct whatever I fueled.

7 Q And that's deducted from your pay?

8 A Well, the fuel that goes for the truck. If I
9 get 20, \$40 out of there, they'll deduct that from me,
10 from my check.

11 Q All right. Are you familiar with Israel
12 Martinez, Jr.?

13 A I've met him, we went to school together.

14 Q How long have you known him?

15 A Like I said, we went to school together for, I
16 guess, you can say pretty much over 20 years.

17 Q What do you recall about his initial involvement
18 with Salinas Express as a driver?

19 A I know that he helped us out several times
20 before and he was trying to get hired on to the company.
21 But other than that, I don't know how long, how many times
22 he drove or anything.

23 Q You said that he helped you out before. Do you
24 have any recollection about when that was, when he first
25 started to maybe drive for Salinas?

1 A I know he went on a load with me once because I
2 couldn't walk, I had gout. So he went with me to make the
3 load so I could explain to him where to go, how to do it.

4 Q Do you have any recollection about when that
5 was?

6 A I couldn't, I can't remember it.

7 Q The accident that you're obviously here about
8 today occurred in October, towards the end of
9 October 2015?

10 A Yeah.

11 Q Do you have any recollection or knowledge or
12 information about how many times that Mr. Martinez would
13 have driven a tractor trailer for Salinas Express prior to
14 that time?

15 A I know he did that one day he did with me.

16 Q Okay.

17 A Other than that, I can't. Like I say, I'm never
18 home. I don't know who's on what.

19 Q The one time that he did go with you that was
20 before this accident, correct?

21 A Yeah.

22 Q Okay. Do you remember where you all went?

23 A Winchester.

24 Q Does Salinas provide any kind of formalized
25 training as it relates to the, to truck driver, such as

1 Mr. Martinez?

2 A Well, we all knew that he already drove. We
3 seen him run through town on other trucks, so I guess they
4 assumed that he already had training. You go to the
5 oilfield, they give you training. Basically, that's what
6 it was in Zapata, oilfield, they train you to train.

7 Q So sort of on the job type?

8 A Yeah.

9 Q But to your knowledge, does Salinas offer any
10 kind of formal --

11 A With me, they rode with me at first, explained
12 to me what to do and how to do it and I don't know if they
13 did it with him.

14 Q Okay. The truck, the tractors that you all
15 drive, who at Salinas provides maintenance or does work on
16 those vehicles?

17 A If it's minor, like, changing the tires,
18 something like that, Ruby does it at his house or over
19 there at the office. If it's major, they got a shop in
20 the Valley where they do it.

21 Q Do you know what the name of the shop is in the
22 Valley that does it?

23 A No, I just know they call him Adrian, the owner
24 of the place.

25 Q Adrian?

1 A Yeah.

2 Q Does -- does Salinas keep any kind of logbooks
3 as it relates to the trips that you all --

4 A I turn mine in after every trip.

5 Q You do turn yours in?

6 A Yeah.

7 Q Has it been that way for the nine years that
8 you've driven for Salinas?

9 A Yeah.

10 Q Now, is there a -- sort of explain that to me.
11 Is there a separate book that stays with each tractor, is
12 there a book that, that you have that personally as a
13 driver --

14 A No, there's one that stays there. It's got the
15 unit number on it and it's got all the information of the
16 trucks and trailers that the company owned -- owns and
17 they all have to stay there in the truck.

18 Q So let's say that you take a trip to Winchester.
19 When you start your trip here in Texas is that logbook in
20 there?

21 A No, my logbook I keep it with me in case they
22 change me to another truck, I got to carry that one with
23 me. The book that I say has got the information for the
24 truck, registration, all that, stays in the truck.

25 Q That stays in the truck?

1 A Yeah.

2 Q But the logbook itself, there's one assigned to
3 you as a driver?

4 A Yeah. Or you can buy one at the store in case
5 you run out.

6 Q And what's in the book?

7 A A bunch of numbers. You got to make your lines,
8 with how many times you drive, what places you stopped and
9 how many hours you sleep, when you get your breaks; you
10 got to put all that in there.

11 Q Is that a preprinted form?

12 A They got some at the yard and they got
13 preprinted that has the letterings up on top with the
14 company and the ones you get at the store they don't got
15 them.

16 Q But do you have a book that you keep that has
17 all the trips you've taken over the past years or?

18 A Well, we're not allowed to keep more than the
19 last 14 days with us in the truck.

20 Q Okay. So you -- so what do you do after that
21 those 14 days are up, or the trip is up?

22 A I turn mine in so they should be in file there
23 at the office.

24 Q So you are always turning them to Salinas?

25 A Yeah.

1 Q Do you have any knowledge or information about
2 what Salinas then does with those documents?

3 A I don't stick around the office. I don't need
4 no more headaches.

5 Q And when you turn them into Salinas, who is it
6 that you are turning them into?

7 A Well, I just leave them there in the office with
8 all the paperwork, and I think his sister or him picks
9 them up, take them in. I don't know who works with them.

10 Q Either Rudy or Sylvia?

11 A Yeah.

12 Q All right. Let's talk a little about this trip
13 that you were on when the accident occurred. Am I correct
14 you were involved on this trip?

15 A Well, I was there, but I didn't do very much.

16 Q Okay. Well, let me, let me start from the
17 beginning then. How did you get involved initially in
18 this whole, in this whole deal?

19 MR. FRANKL: Hold on a second. When you
20 say initially, what time period are you looking at? On
21 the way back to Virginia? I mean, I don't understand.

22 Q (By Mr. Skaff) You were there when the accident
23 occurred, correct?

24 A I was there, but I was in the rest room.

25 Q Okay. But you were there?

1 A Yeah.

2 Q How did you get from Texas to Virginia?

3 A I had to go back to pick up the trailer that Roy
4 was hauling when he broke down.

5 Q Okay. How did you first know that Roy was
6 broken down and you needed to go to Virginia to help him
7 out?

8 A We kind of ran into each other on the way back
9 down.

10 Q So tell me where you had been, that sort of
11 thing?

12 A I was up in Pennsylvania and he was around the
13 same area, and when we were coming back down we kind of
14 met up, or I kind of caught up to him and he told he was
15 having trouble with his truck and eventually broke down.

16 Q Where were you when you caught up to him?

17 A And I believe it was there in Raphine, Virginia.

18 Q When you say you caught up with him, did you
19 all, did you meet in person?

20 A He was at the truck stop and I pulled in and
21 found him there.

22 Q At White's Truck Stop?

23 A Yeah.

24 Q Okay. Tell me specifically as you can what the
25 conversation was.

1 A He just told me he was having trouble with his
2 truck. He thought it was the transmission. All right.
3 Ready to go, we took off, he was in front of me, until he
4 said truck gave out.

5 Q So were you there when his truck broke down?

6 A Yeah. When the truck broke down I was behind
7 him. I wasn't too far from him.

8 Q Okay. Where had you been in Pennsylvania? What
9 were you doing in Pennsylvania?

10 A Reloading -- getting reloaded.

11 Q With what?

12 A I don't remember.

13 Q What tractor were you driving?

14 A 108.

15 Q 108?

16 A Yeah.

17 Q And what tractor was Roy driving?

18 A I believe it's 112. I'm not too sure what unit
19 number it is.

20 Q When you were -- when you are driving for
21 Salinas, does Rudy stay in contact with you when you are
22 driving?

23 A Every morning he checks in to see where we're
24 at.

25 Q Okay. And how does he do that?

1 A He either calls or sends a text message and
2 waits until we answer it.

3 Q Are there -- on the tractors that you all drive
4 are there any other tracking mechanisms besides that?

5 A No.

6 Q No?

7 A No.

8 Q In listening to Mr. Martinez testify, he
9 indicated there is GPS system built into them?

10 A Not the truck that I got. Not that I know of.
11 Like I said, he always calls me to see where I'm at or
12 sends me a message.

13 Q Is there a GPS system in one that you drive that
14 sort of tells how where you can go or how do you know the
15 directions?

16 A I've been doing it for so long.

17 Q Do you ever a GPS that's in your tractor?

18 A I ain't got one.

19 Q Okay. Do you know whether or not there are GPS
20 systems in the other tractors that Salinas has?

21 A No.

22 Q You don't know?

23 A I don't know.

24 Q Okay. So you are there with Roy when his
25 tractor breaks down at the truck stop?

1 A No, we had already taken off from the truck
2 stop. He told me he was having trouble.

3 Q Right. And so -- I'm sorry. I misunderstood
4 you. So were you with him when it broke down at the rest
5 area?

6 A Yeah. It was a little bit before the rest area
7 so I pulled him in there to pull him out of the highway.

8 Q Okay. So what happened next?

9 A After that I left from there because I couldn't
10 stay there. So I went down to Roanoke a little further
11 went to the truck stop so I can park.

12 Q And what did you do after that?

13 A I just went to bed and went -- sorry.

14 (Phone Interruption.)

15 A I just waited until the morning and see what we
16 were going to do.

17 Q Okay. So what was your next involvement in all
18 of this?

19 A After that I went back to the rest area to see
20 if Roy was able to get into a parking spot and see what he
21 was going to do. He said, well, I might have to leave my
22 truck here. He spoke to the person over there at the rest
23 area telling them he was going leave the truck there for a
24 few days. Got in the truck with me and came back, came
25 down here.

1 Q Let me show you a -- let me show you this which
2 is, I'll represent to you is an overhead view of the rest
3 area where the accident at issue in this case occurred.
4 Does that --

5 A Yeah.

6 Q Does that appear to be that to you?

7 A Pretty much.

8 Q Okay. So when you, when you pulled -- so you
9 told -- you said you pulled Ray's tractor trailer into
10 this rest area?

11 A Yeah.

12 Q When you parked it and you left it there and you
13 all came back where was it positioned?

14 A Right here where you see that first truck in the
15 parking spot.

16 Q Can I get you to take that Sharpie in front of
17 you and just put an X where the tractor trailer was
18 positioned when you first pulled it in and you guys left
19 to come back to Texas?

20 A Well, when I first pulled it in he was up here
21 (Indicating) on the first spot.

22 Q Okay. And so just for the record -- well, can
23 you -- I forgot we're on video here.

24 So can you show the videographer where
25 you're talking about?

1 A About right here.

2 Q That's when you first pulled it in?

3 A When I first pulled him and I was unhooking
4 because there is signs there that said no parking but
5 there were other trucks right there. So I got him off the
6 highway, just a little bit more safer onto to the ramp.
7 State trooper came in and he got after me. I said I'm not
8 going to be here, I'm just pulling him in here to get him
9 off the highway. Well, you can't pull him. I was going
10 to try to pull him into parking spot over here. So I had
11 to let him go there and I went to the truck spot.

12 Then by the time, I came back in the
13 morning to check up on him he was parked in that spot.

14 Q Okay. So that's what I would like for you to
15 mark with an X. Did you do that?

16 A Well, I marked it where he was first.

17 Q Okay.

18 A And then where he was in the morning.

19 Q Okay. All right. Just hold on to that.

20 MR. HEARN: Are we going to mark that as an
21 exhibit --

22 MR. SKAFF: Yes, if we could just mark that
23 as an exhibit, please.

24 (Exhibit marked for identification as
25 Deposition Exhibit Number 7.)

1 Q One is -- you are going to mark --

2 A One is where I left him.

3 Q Okay.

4 A And two is where he was in the morning.

5 Q Okay. When he was in the morning, which way was
6 his tractor pointed?

7 A Just like that one is.

8 Q Okay. So it would be pointed southbound on
9 I-81?

10 A Yeah. Yes, sir.

11 Q Okay.

12 MR. HEARN: And that photo there printed is
13 marked for identification purposes Exhibit Number 7.

14 MR. SKAFF: Correct.

15 Q (By Mr. Skaff) Okay. Do you remember -- do you
16 have any recollection about the date when that was?

17 A Might have been about three, four days before.

18 Q Before the accident occurred.

19 So if the accident occurred October 26,
20 2015, that would have been in and around October 22 or 23?

21 A Somewhere around there.

22 Q Okay. All right. And then so, so what happened
23 next?

24 A I came back down here Roy, helped me drive to
25 deliver the load that I had and whatever he did while I

1 was asleep, arrangements, I didn't find out.

2 Q Okay. Did you ever -- as you all traveled back
3 from Virginia to Texas, did you hear Roy make any kind of
4 arrangements about what needs to be done?

5 A No.

6 Q When, when you all left Roy's tractor trailer up
7 there in Virginia, did you, was it a full load?

8 A Yeah.

9 Q Any recollection about what it was?

10 A I couldn't tell you.

11 Q Do you know where it was supposed to be
12 delivered?

13 A Here in Laredo.

14 Q So you guys ultimately get back to Zapata?

15 A Yeah.

16 Q Okay. When did you next become involved in
17 getting back up to Virginia?

18 A Back when I got to Zapata Rudy told me if I
19 could go back to pick up the trailer.

20 Q Rudy asked you to go back?

21 A Yeah.

22 Q And what was your understanding of what, who all
23 was to go and what, what --

24 A I thought I was going to be me and Roy. I
25 didn't -- by the time I knew it Israel was there and then

1 we picked up Art.

2 Q So when did, when did Mr. Martinez become
3 involved or where -- and where did Mr. Martinez become
4 involved?

5 A He rode with me on the way to the Valley. We
6 ended up hooking up my truck to the SMC truck.

7 Q So who rode from here Zapata to the Valley?

8 A Israel and me.

9 Q Just you two?

10 A Yeah.

11 Q And you were driving the unit that you typically
12 drove?

13 A Yeah. I think it was -- we took turns on that
14 one. I'm not -- I don't remember exactly, but I think we
15 took turns.

16 Q Is this something that you expected you were
17 going to get paid for this trip?

18 A I knew I was going to get paid bringing the
19 trailer back.

20 Q Did you ultimately get paid for bringing it?

21 A Yeah.

22 Q You did?

23 A Yeah.

24 Q So you and Mr. Martinez drove up to the Valley?

25 A Uh-huh.

1 Q And why -- how did you become aware that you
2 were to stop in the Valley?

3 A We were going to meet Roy in the Valley.

4 Q And why were you going to meet Roy in the
5 Valley?

6 A That's where they hooked my truck up to the back
7 of the SMC truck.

8 Q And why were you going to do that?

9 A To save on fuel, so we don't have to fuel both
10 trucks.

11 Q And how did you become aware that you all were
12 going to do that?

13 A Once I got to the Valley.

14 Q I mean, you were just driving along and somebody
15 told you --

16 A We're going to do this. I mean, it just
17 happened real quick. By the time I knew we were hooking
18 my truck to the trailer.

19 Q How did that -- how did that take place by a
20 telephone call?

21 A No, when we made it to the truck stop.

22 Q Okay. So help me out a little bit.

23 A When we met at the truck stop where we were
24 going to meet Roy, that's when they decided, let's just
25 hook it up, we'll save on the fuel instead of spending on

1 both truck we'll just spend it on one.

2 Q So, so where did you go to hook up with the SMC
3 truck? ..

4 A Weslaco.

5 Q I'm sorry?

6 A Weslaco, Texas.

7 Q At a facility or --

8 A It was a little fuel stop.

9 Q Tell me a little bit about SMC. What do you
10 know about SMC?

11 A Not much.

12 Q What do you know?

13 A I know that they're cousins related to Salinas.

14 Q Who are they?

15 A The -- Sergio -- most of the drivers they got
16 there, his brothers and his dad so they're all related.

17 Q So Sergio's family is related to the Salinas
18 family?

19 A Yeah.

20 Q Had you met Sergio?

21 A Yeah.

22 Q How many times had you met him before?

23 A We used to work together when we were leased to
24 SMS -- MD.

25 MR. FRANKL: Say that again. You used to

1 work together where.

2 THE WITNESS: MTE I believe -- that's the
3 name of the company.

4 MR. DUNN: Leased on to --

5 THE WITNESS: We were leased on to that
6 company. We were leased on to that company.

7 Q (By Mr. Skaff) What do you mean leased onto that
8 company?

9 A That was before they became Salinas Express they
10 were leased on to another company.

11 Q Had you ever driven an SMC truck before?

12 A No, I just road in it.

13 Q All right. So you come to this fuel stop, you
14 and Mr. Martinez, you come to the fuel stop and who's
15 there?

16 A Roy showed up with the SMC truck and after that
17 Sergio fueled up.

18 Q Was Roy driving the SMC truck?

19 A Yeah.

20 Q And then Sergio came?

21 A Uh-huh.

22 Q Yes?

23 A Yes.

24 Q What is your understanding, if you have any, as
25 to why Sergio came?

1 A When they told me they were going to hook up my
2 truck to the other one, I tried to explain them one way
3 that I saw how to do it and Sergio came in and hooked it
4 up a different convey.

5 Q Had you all tried to hook it up before Sergio
6 came?

7 A We tried hooking it up to the way I had done it
8 before, and they didn't agree with it, and then Sergio
9 came in and hooked it up.

10 Q Did somebody call Sergio to come and help?

11 A I just turned around and he was showing up.

12 Q Okay. And how did you hook it up?

13 A I didn't -- I didn't look the way they hooked it
14 up.

15 Q I mean, generally, how do you do something like
16 that?

17 A Generally, you got to loop around the frame to
18 make sure that they don't go nowhere and then you got to
19 tie the axles up to where they won't be dragging on the
20 ground. And Sergio came in, he went -- somehow he got all
21 of it in one shot.

22 Q What do you do? Chains or--

23 A With chains.

24 Q Do you use any other type of equipment to do
25 that?

1 A Well, basically, they are just chains that you
2 use.

3 Q And you use a wench or anything like that?

4 A It's got a hydraulic, an electric jack that
5 picks it up off the ground once you get it all tied down.

6 Q Did the SMC truck, did it have this special
7 equipment on it to allow it to haul other trucks?

8 A It's just an adapter kit you hook up to the
9 fifth wheel.

10 Q Anything else happen there at the, in getting
11 your truck hooked up to the SMC truck?

12 A Once we got it hooked up went on our way.

13 Q So who -- at that point it's you,
14 Mr. Martinez --

15 A And Roy were in the truck.

16 Q Did you make any other stops on your way to
17 Virginia?

18 A We picked up Art in Houston. I don't remember
19 where we stopped to get fuel.

20 Q And I'm sorry, that wasn't a very good question.
21 That's what I meant. Did you stop to pick up anybody
22 else?

23 A That's the only stop, we picked up.

24 Q So you picked up Art?

25 A Yeah.

1 Q Who is Art? What's his last name?

2 A Mechanic. I think it's Gutierrez.

3 Q And he's located in Houston?

4 A Yeah.

5 Q And you believe him to be a mechanic?

6 A Yeah.

7 Q Had you ever met Art before?

8 A He's also related to Roy and Ruben.

9 Q Do you know how they're related?

10 A I believe it's the mom to his dad are cousins,
11 something like that.

12 Q Now, do you have any knowledge or information
13 about how Art came to be involved in this, how the
14 arrangements were made or anything like that?

15 A No, sir. By the time I knew it, hey, we're
16 going to stop here in Houston to go pick up Art. Okay.

17 Q So you do that, you stop and pick up Art?

18 A That's all. They picked him up and we took off.

19 Q Okay. Who, who physically drove on the trip
20 from, from Houston to Virginia?

21 A Roy and Israel.

22 Q Was there any particular reason that you didn't
23 drive?

24 A I needed to get my restart for my log.

25 MR. DUNN: I'm sorry. I didn't hear you.

1 THE WITNESS: I wasn't going to have time
2 if I got up there to drive back, so I had to get my
3 restart.

4 Q (By Mr. Skaff) So you needed to get your rest, is
5 that what you're saying?

6 A Yes.

7 Q Had you been in that SMC truck before?

8 A No.

9 Q Are you aware or were you aware at the time of
10 logbooks associated with that tractor you all made your
11 trip?

12 A No, nothing. I didn't know nothing whatsoever.
13 I don't know if they did any.

14 Q Did you ever see any at any point on the trip?

15 A No, I didn't see one.

16 Q You're not saying that there wasn't one. You
17 just didn't see one?

18 A I didn't. There might have been one. They
19 might have done it. I was held back in the sleeper. I
20 didn't pay much attention.

21 Q All right. So ultimately you get in Virginia,
22 correct?

23 A Uh-huh.

24 Q Yes?

25 A Yes, sir.

1 Q And you come to the rest area?

2 A Yes, sir.

3 Q Okay. Did you arrive some time in the morning
4 of October the 26th, 2015?

5 A It was late. I couldn't tell you what time it
6 was, but I know late. It was already dark.

7 Q Was it late the night before or was it -- let me
8 ask this question.

9 How long had you all been there before the
10 accident occurred?

11 A I don't remember.

12 Q Was it -- had you slept in the rest stop or
13 something like that?

14 A I went to sleep for a little bit and once I got
15 hooked up to the trailer, I moved my truck out of the way.
16 They have a slot right there. Where Roy was initially
17 parked, I parked across on the other side in front.

18 Q Let's go back then. Tell me when you, when you
19 all first arrived at the rest stop, where were you
20 positioned when you, were you in the back sleeper still?

21 A When we got there, I helped them unhook the
22 truck from there and then we unhooked the trailer from
23 the, Roy's truck and I hooked up to it and moved it out of
24 the way while they started hooking up everything to Roy's
25 truck.

1 Q But you don't have any recollection about the
2 date or the time?

3 A The time I don't remember.

4 Q Okay. But it was dark?

5 A Yeah.

6 Q What was the traffic like off I81 South when you
7 got there?

8 A Calm.

9 Q What was the, sort of, volume of trucks in that,
10 in that rest stop that evening early that morning? Do you
11 have any recollection about that?

12 A Going back to the picture?

13 Q Sure. And you are going -- you are referring to
14 Exhibit Number 7?

15 A Yeah. I know there was trucks parked along the
16 way, Roy's truck.

17 Q Can you again show the videographer what you
18 are --

19 A There was trucks parked along shoulder on the
20 exit ramp.

21 Q Okay.

22 A I got -- I got Roy's trailer out of the way from
23 there and moved over here right, went across in front
24 because we had taken off gotten out of the way so they
25 could park Roy and the SMC truck right there.

1 Q Were there also -- can you turn that again,
2 around again.

3 Were there also trucks lined up on the, on
4 the left side of the exit ramp as you -- as you come off
5 of the interstate on the southbound lane?

6 A No. There's no space right here to park. On
7 this part right here there's no space. So the last truck
8 that's parked right there, that's the last spot. I know
9 there was -- it was pull over here when I --

10 Q Again. Can you -- I'm sorry. I don't mean to
11 interrupt you.

12 A When I hooked up to the trailer, a truck that
13 was up here pulled out of the way so I moved over there.

14 Q But your recollection is that there was not --

15 A There were these two that you can see right
16 here.

17 Q And that would have been the last --

18 A That's the last one that's parked there. If
19 there was one behind that they'll run into him from
20 behind.

21 Q And when you all first got there, I assume -- do
22 you travel -- you're on a northbound traffic, do you go
23 up?

24 A We went up next exit, came back down and pulled
25 in there.

1 Q All right. All right. I know you sort of told
2 me what you did, but let me go back just a little bit and
3 make sure I understand.

4 So when you come back, you get off at the
5 rest area and you pull into the rest area near Roy's
6 truck?

7 A Yeah.

8 Q Okay. So tell me in more detail what happens at
9 that point?

10 A We unhooked.

11 Q Who did what, if you can remember?

12 A Since Roy and them were messing with the hoist,
13 they're the ones that dropped my truck down, took the
14 chains off real quick. And I came -- I pulled out instead
15 of pulling all the way to the outside, I just turned
16 around right there where the cars are parked where your
17 park the cars, that's where I was able to turn around the
18 truck by itself.

19 Q So you turned the truck around by itself?

20 A Right there inside. I didn't even bother coming
21 out, not even close to the ramp.

22 Q Okay.

23 A I just looked around that same, Roy's truck and
24 the, the little piece grass that's right there in the
25 median.

1 Q Again, can you hold that up so we can see.

2 A Right here.

3 Q Yes, sir.

4 A You see that little piece of grass, I just came
5 in and came parked right here, along the other side of the
6 truck. While we got Roy's truck unhooked from here and I
7 backed up and got into it.

8 Q All right. So what happened -- what happened
9 next?

10 A From there I moved up to the other parking spot.
11 By then they already hooked up the other truck. While I
12 was hooking up to the other trailer they hooked up to the
13 other truck.

14 Q They ultimately got it hooked up and then what
15 happened?

16 A I went into the rest room, by the time I knew it
17 all hell broken loose up in the highway.

18 Q All right. So let me stop you there for a
19 second. So you then once everything is hooked up, you got
20 into the rest room?

21 A Yeah.

22 Q When you start to make your way up to the rest
23 room, where was everybody at that point?

24 A I know Roy's truck and the SMC truck were parked
25 right here.

1 Q Side by side.

2 A They were already hooked up in that parking
3 spot.

4 Q Okay.

5 A I was parked over here and that's when I went to
6 the rest room.

7 Q Okay. Were people in the tractors or were
8 people --

9 A They were still -- I guess they were still
10 making sure that everything was hooked up right now that
11 they had gotten that a parking spot.

12 Q Okay. So you go into the rest room. How long
13 do you think you're in the rest room?

14 A I must have been in there about 15 minutes.

15 Q Okay. When you come back out, what do you see?

16 A I see a truck driving down the road very slowly.

17 Q Well, again let me stop. You say driving down
18 the road.

19 A Yeah, very slowly.

20 Q What truck did you see driving down the road?

21 A A semi truck hauling a container going
22 southbound very slow on the highway.

23 Q Okay.

24 A I saw Israel was about right here with both
25 trucks.

1 Q Okay. Can you again hold that up so we can see.
2 Where was Israel when you saw him?

3 A Slightly past this last truck right here.

4 Q Okay. So past that white truck that's shown in
5 Exhibit 7?

6 A Yeah. Maybe one truck was in front and the
7 other truck was still off here in the rest area. I don't
8 know if he was trying to adjust to park or something.

9 Q All right. Which way was he headed?

10 A He was facing north on the southbound side.

11 Q Okay. When you first saw that where were you?

12 A Just walking out of the rest room.

13 Q Okay. So tell me how things transpired from
14 that?

15 A From there one of the ladies that works there in
16 the rest area said, I already called them, they're on
17 their way. What happened? There's been an accident in
18 the highway. I went back to my trunk. I don't want to
19 see nothing. I don't want to find out if anybody is dead
20 or anything, and that's when I went back to my truck.

21 Q Well, let me make sure I understand.

22 So when you first saw, when you came out of
23 the rest room Israel driving was he moving?

24 A No, the truck was parked right there where I
25 showed you. The truck was parked about right here.

1 Q And is it?

2 A I don't know if he tried to readjust to park
3 straight where he was or what.

4 Q And is it your understanding, are you telling me
5 that the accident had already happened at that point?

6 A Yeah.

7 Q All right. Let me get you to do this then.
8 Take that marker.

9 A Okay.

10 Q What I would like to you do is mark with an X
11 and circle around it where you saw Israel's tractor
12 trailer when you came out of rest room.

13 A (Complies.)

14 Q Can you hold that up so we can see?

15 A Right here.

16 Q So almost -- I mean, off -- I've been to the
17 rest stop there.

18 A Almost inside -- say, the truck they hooked up
19 was pulling the other one they were going into the rest
20 area.

21 Q Okay. But he was facing --

22 A He facing north on the southbound side.

23 Q All right. Had the police arrived at that
24 point?

25 A No.

1 Q Had any personnel arrived at that point?

2 A No.

3 Q When I say personnel, I mean, ambulance or
4 things like that?

5 A (Nods head.)

6 Q That's a no?

7 A No.

8 Q You have this conversation with this lady. Do
9 you know who that lady was?

10 A All I know she worked there at the rest area.

11 Q Can you describe her for me in any way?

12 A Blonde, medium built, not too tall, not too
13 short.

14 Q And did she say to you?

15 A When I asked her what happened, she said an
16 accident happened on the highway, help with on the way.

17 Q Did you go over to --

18 A I didn't bother going to see the accident.

19 Q So what did you do?

20 A I went back to my truck and got in it.

21 Q And what did you do?

22 A I stayed in there and went to bed. I went to go
23 lie down, went to sleep.

24 Q Did you hear all the ambulance come or police
25 come?

1 A I saw when a trooper came up close to my truck
2 and he was standing there parked right there in the
3 middle. And I got off walked around to the back of the
4 truck, of the trailer. He said, were you involved in
5 this? No, sir, my truck is right here.

6 Q At any point -- at any point did you see
7 Mr. Martinez driving --

8 A No.

9 Q -- his tractor?

10 A The only moment that I saw is when he backed
11 into that slot from where I saw him.

12 Q And when he did that, which way was he facing?

13 A Same way. He backed in to get into that spot.

14 Q Did you all have any discussions about how you
15 were going to get around or do anything like that?

16 A Let's wait until the morning and see what we can
17 do to get turned.

18 Q And who said that?

19 A I told them, I'm not going to do anything until
20 the morning to find out how we can do that.

21 Q And what was the response to that?

22 A Okay.

23 Q But then when you came out?

24 A All hell broke loose.

25 Q So did you ever see -- I know what you told me,

1 but I'm going to ask you some specific questions.

2 Did you ever see a pickup truck involved in
3 this incident?

4 A No.

5 Q Did you ever see a bread truck involved in this
6 incident?

7 A No.

8 Q And the only conversation that you had with the
9 trooper involved you just telling him, I didn't see
10 anything?

11 A That's all.

12 Q So when were you -- when were you next involved
13 in all of this?

14 A All of a sudden they said -- Rudy called me and
15 said that he wanted --

16 Q No. No. That day --

17 A Oh, that day.

18 Q -- that night or whatever it was. I mean, what
19 did -- when were you next -- when did you next -- at some
20 point you had to have gotten involved in this.

21 A There was a trooper that showed up because I
22 guess Israel tried to turn the truck around again later on
23 that, after the accident was cleared up and everything, I
24 think he tried to turn the truck around, trooper showed up
25 and he said, if you try to do that again, I'm going to